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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,734	12/04/2003	Jane F. Koretz	RPI-3731	7208
5409	7590	03/23/2005	EXAMINER	
ARLEN L. OLSEN SCHMEISER, OLSEN & WATTS 3 LEAR JET LANE SUITE 201 LATHAM, NY 12110			SANDERS JR, JOHN R	
			ART UNIT	PAPER NUMBER
			3737	
DATE MAILED: 03/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

SH

Office Action Summary	Application No. 10/727,734	Applicant(s) KORETZ, JANE F.	
	Examiner John R. Sanders	Art Unit 3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/4/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,715,877 to Molebny ("Molebny").

Molebny discloses a wavefront sensing apparatus comprising an accommodative stimulation device (Badal optometer **42**), an electromagnetic wave exposure device (laser **8**), and an imaging device (Hartmann-Shack wavefront sensor **25**). The Badal optometer projects the a crosshair target on plate **41** to the eye **5** to provide an accommodative state of the eye in a manner well known in the art (col. 10, lines 16-24; paragraph bridging col. 10-11).

Molebny discloses the Badal optics axis being disposed perpendicular to the visual axis of the eye and separated from said visual axis by beam splitter **6** (fig. 18).

Molebny does not expressly disclose an adjustable target or the beam splitter being comprised of a half-silvered mirror. However, adjustable targets are common expedients in the art as means for changing the location/focus/target image for the eye's fixation and would be obvious to artisans of ordinary skill to include in the device of Molebny, since Molebny discloses a device with a fixation target. Beam splitters are commonly comprised of half-silvered mirrors and such a species of beam splitter would have been obvious to one of ordinary skill in the art to

use as beam splitter 6 in Molebny.

3. Claims 2-5, 13, 14 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molebny in view of U.S. Patent No. 4,778,268 to Randle ("Randle"), and further in view of U.S. Patent No. 6,419,671 to Lemberg ("Lemberg").

Molebny discloses a Badal optometer but does not expressly disclose specific limitations of said optometer. Randle is exemplary of an optometer with Badal optics expressly designed to effect accommodative changes in the eye in a manner well known to artisans of ordinary skill. Randle teaches illuminated target projection optics disposed on a translatable stage 20 that can be driven by a computer-controlled motor and which has a linear diopter scale 23 disposed thereon (fig. 23; col. 4, lines 55-64).

With respect to the limitation of changeable targets or masks, Randle teaches at least that different apertures (broadly interpreted as masks) can be interchanged in the optical path effecting different operability (col. 5, lines 29). Changeable targets are commonly used in the art to change the location/focus/target image for the eye's fixation by selectively inserting or illuminating different target elements into the optical path.

With respect to the inclusion of adjustable lenses for compensation of the eye's refraction, though not expressly disclosed by Molebny in view of Randle, the patent to Lemberg teaches a fixation target optical path 238 with adjustable lens elements 240 disposed therein for purposes of refractive correction such that the fixation target is clearly viewed by the subject (col. 12, lines 1-21). This correction is effected in a manner well known in the art and is also commonly effected by the functional equivalents of an alterable path length element or a pair of rotatable

cylindrical lenses. Adjustable lenses as claimed would be obvious to an artisan of ordinary skill as a common expedient to include in any ophthalmic instrument wherein a fixation target is projected to the eye and meant to be viewed in focus by the eye.

4. Claims 1, 6 and 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,757,462 to Nanjo in view of Randle, and further in view of Lemberg.

Nanjo clearly discloses a slit-lamp apparatus for imaging the anterior chamber of the eye based on the Scheimpflug principle. Nanjo discloses fixation target projection optics **21, 22, 23**. Nanjo does not expressly disclose a Badal optometer for effecting accommodation change.

Randle, as previously discussed, teaches the well known functionality of a Badal optometer wherein a fixation target's effective distance is changed without a perceived dimensional change in order to cause a dioptic accommodative compensation by the lens in the anterior chamber of the eye. The use and functionality of such a device is well known in the art. Lemberg teaches the limitation of adjustable lenses for refractive correction for the eye when viewing a fixation target, as previously discussed, which would be an obvious inclusion into the device of Nanjo, since Nanjo discloses fixation optics.

As a Badal optometer is used to change and measure accommodation of the lens in a manner known in the art, and as a Scheimpflug slit lamp is known in the art for imaging the anterior chamber, it would have been obvious to one of ordinary skill in the art to image accommodative changes to the lens caused by the device taught by Randle with an imaging apparatus specifically designed to image the anterior chamber, as disclosed by Nanjo. Thus the accommodative stimulus/Scheimpflug imaging apparatus of the instant invention is an obvious

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combination of device elements known in the art, the Badal optometer and the Scheimpflug camera, each used for their expressly disclosed and well-known purposes.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Sanders whose telephone number is (571) 272-4742. The examiner can normally be reached on M-F 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JRS


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